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*ENDED
 020812*
*The parties have
 intended that this
 motion be withdrawn
 last year, we
 don't want to withdraw*

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

----- x
 HOI L. WAN, :

Plaintiff, :

- against - :

05 Civ. 4295 (CBM) (ECF)

UNITED STATES POSTAL SERVICE :
 and JOHN E. POTTER, Postmaster :
 General of UNITED STATES :
 POSTAL SERVICE, :

Defendants. :
 ----- x

NOTICE OF MOTION

**USDC SDNY
 DOCUMENT
 ELECTRONICALLY FILED
 DOC #:
 DATE FILED: 4/10/06...**

PLEASE TAKE NOTICE that upon the Memorandum of Law in
 Support of the Government's Motion to Dismiss, dated June 28,
 2005, the Declaration of Mitchell Sturman, dated June 28, 2005,
 and all exhibits thereto, the Declaration of Russell M. Yankwitt,
 dated June 28, 2005, and all exhibits thereto, and upon all the
 pleadings heretofore filed in this action, defendant John E.
 Potter, Postmaster General of the United States Postal Service,
 by his attorney David N. Kelley, United States Attorney for the
 Southern District of New York, will move this Court before the
 Honorable Constance B. Motley at the United States Courthouse,
 500 Pearl Street, Room 26A, New York, New York 10007, for an
 order granting summary judgment in favor of defendant and

dismissing the Complaint pursuant to Fed. R. Civ. P. 56 for for failing to exhaust administrative remedies in a timely manner, and for such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 6.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, papers in opposition to this motion, if any, will be due within ten business days after service of these papers, and reply papers, if any, will be due within five business days after service of the opposition papers.

Dated: New York, New York
June 28, 2005

DAVID KELLEY
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Attorney for Defendant John E. Potter

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